

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

NADINE LEE,  
Plaintiff,

v.

RICKY L. CLARK, JR., individually  
and in his official capacity as City  
Manager for the City of Jonesboro;  
WILFRED NORWOOD, individually  
and in his official capacity as Interim  
Chief of Police for the City of  
Jonesboro; and THE CITY OF  
JONESBORO, GEORGIA,  
Defendants.

CIVIL ACTION NO.  
1:21-cv-03854 ELR-AJB

**PLAINTIFF’S RESPONSE TO ORDER TO SHOW CAUSE**

COMES NOW, Nadine Lee, by and through counsel, pursuant to this Court’s Order entered January 5, 2022, requiring Plaintiff to show cause “why the complaint should not be dismissed for failure to serve Defendants,” states:

1. As explained in the attached sworn statement of Plaintiff’s associate attorney, Andrew C. Salman, two actions were initially filed relating to the same matter. The first action (1:21-cv-03854-ELR-AJB) contained a proposed Summons without the required address information. As a result, the Court’s CM/ECF system notified counsel that a Summons would not be issued due to the error and must be refiled. Immediately,

counsel filed the second action (1:21-cv-03858-MLB-WEJ) containing a proposed Summons with the correct address information to correct the mistake.<sup>1</sup> The Complaint was identical in both cases.

2. Because 1:21-cv-03858-MLB-WEJ was the later-filed and correctly filed of the two actions, Plaintiff filed her Certificate of Interested Parties and perfected services on Defendants in that action. Defendants acknowledged service and answered in that action. Both parties held a conference pursuant to F.R.C.P. 26(f) and filed a Joint Preliminary Report and Discovery Plan in that action.
3. On November 30, 2021, Magistrate Judge Walter E. Johnson filed his Final Report and Recommendation, recommending that 1:21-cv-03858-MLB-WEJ be closed and consolidated with 1:21-cv-03854-ELR-AJB. No objections were filed to Judge Johnson's Final Report, and so it became the opinion and order of the District Court on December 13, 2021.
4. On December 1, 2021, attorney Andrew Salman spoke via phone with Defendants' counsel, Alex M. Joseph, about the consolidation and necessary steps. She expressed that she doubted they needed to

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<sup>1</sup> Plaintiff's counsel was unaware that he could have later submitted a corrected proposed Summons in the initial action. Instead, he was under the belief that he had to file a new action containing the corrected proposed Summons.

duplicate any efforts made thus far (such as perfecting service, answering the complaint, or holding a 26(f) conference) into 1:21-cv-03854-ELR-AJB, but would call the Clerk of Court and confirm. Later that day, Ms. Joseph emailed Mr. Salman to state that “she called the clerk’s office and they confirmed that we will not have to file an answer in the ‘new’ case.”

5. Relying on Ms. Joseph’s email and the statements of the Clerk of Court, Mr. Salman concluded that Plaintiff did not need to “re”-file her Certificate of Interested Persons or proof of services, as they would be consolidated into 1:21-cv-03854-ELR-AJB from 1:21-cv-03858-MLB-WEJ.
6. A copy of Ms. Joseph’s December 1, 2021, email to Mr. Salman is attached to his sworn statement, along with Judge Johnson’s Final Report and Recommendation in 1:21-cv-03858-MLB-WEJ.
7. Plaintiff has filed her Certificate of Interested Persons with this Court as directed in the Order to Show Cause.
8. Plaintiff requests that this Court finds that she has shown good cause for failing to timely serve Defendants within the 90-day period set forth in Rule 4(m).

9. Plaintiff requests that this Court finds that Plaintiff has adequately served Defendants or in the alternative exercise its discretion to extend the time for her to serve Defendants properly.

10. The undersigned, in accordance with L.R. 7.1 and 5.1 hereby certifies that the type font used herein is 14-point Times New Roman font.

Respectfully submitted this 7<sup>th</sup> day of January 2022.

**PRIOLEAU & MILFORT, LLC**  
ATTORNEYS FOR PLAINTIFF

/s/Oscar E. Prioleau, Jr.

Oscar E. Prioleau, Jr.  
Georgia Bar No. 588510  
oscar@pmlawteam.com

Andrew C. Salman  
Georgia Bar No. 515006  
andrew@pmlawteam.com

Prioleau & Milfort, LLC  
3800 Camp Creek Pkwy.  
Bldg. 1800, Ste. 124  
Atlanta, GA 30331  
(404) 526-9400 (telephone)  
(404) 920-3330 (facsimile)

**CERTIFICATE OF SERVICE**

I hereby certify that I have this date served the foregoing **PLAINTIFF'S**  
**RESPONSE TO ORDER TO SHOW CAUSE** by filing the same with the Clerk  
of the Court using the CM/ECF system which will automatically send email  
notification of such filing to all parties of record.

This 7th of January 2022.

*/s/Oscar E. Prioleau, Jr.*

Oscar E. Prioleau, Jr.

Georgia Bar No. 588510

Andrew C. Salman

Georgia Bar No. 505006

*Attorneys for Plaintiff Nadine Lee*